

CONTRACTING BY NEGOTIATION

VIEWGRAPHS

FEDERAL ACQUISITION INSTITUTE
CURRICULUM OF PROCUREMENT
TRAINING COURSES

CURRENT THROUGH
FAC 90-25

OFFICE OF ACQUISITION POLICY
GENERAL SERVICES ADMINISTRATION

Industry Panel



- **Publicize Meeting & Select Members**
- **Brief the Requiring Activity**
- **Establish Goals**
- **Disseminate Information**



Solicit for Information or Planning Purposes

- Get Approval
- Organize the SOW
- Develop Bidders List
- Receive Responses

Presolicitation Notice

- **Describe
Needed
Information**
- **Identify if a
Conference
is Necessary**
- **Request an
Expression
of Interest**

An illustration of a presolicitation conference. A group of people, including men and women in various colored coats (green, pink, grey, yellow, blue), are standing in a line outside a building. The building has a red facade with many windows. A large banner is hanging across the front of the building, and a signpost is visible on the left. The scene is set against a light blue background.

Presolicitation Conference Today!!

- Identify & Brief Participants
- Open Conference
- Obtain Feedback on the SOW
- Document all Information
- Identify Interest

Source Selection Plan

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graph TD; SSP[Source Selection Plan] --> Org[Organization]; SSP --> Eval[Evaluation Plan]; SSP --> MS[Scheduled Milestones]; Org --> SSA[Source Selection Authority (SSA)]; Org --> SSO[Source Selection Official (SSO)]; Org --> SSEB[Source Selection Evaluation Board (SSEB)]; Org --> Teams[Teams]; Eval --> EFC[Evaluation Factors and Criteria]; Eval --> SP[Scoring Plans]; Eval --> P[Procedures]; MS --> ;
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Organization

Source Selection Authority (SSA)

Source Selection Official (SSO)

Source Selection Evaluation Board (SSEB)

Teams

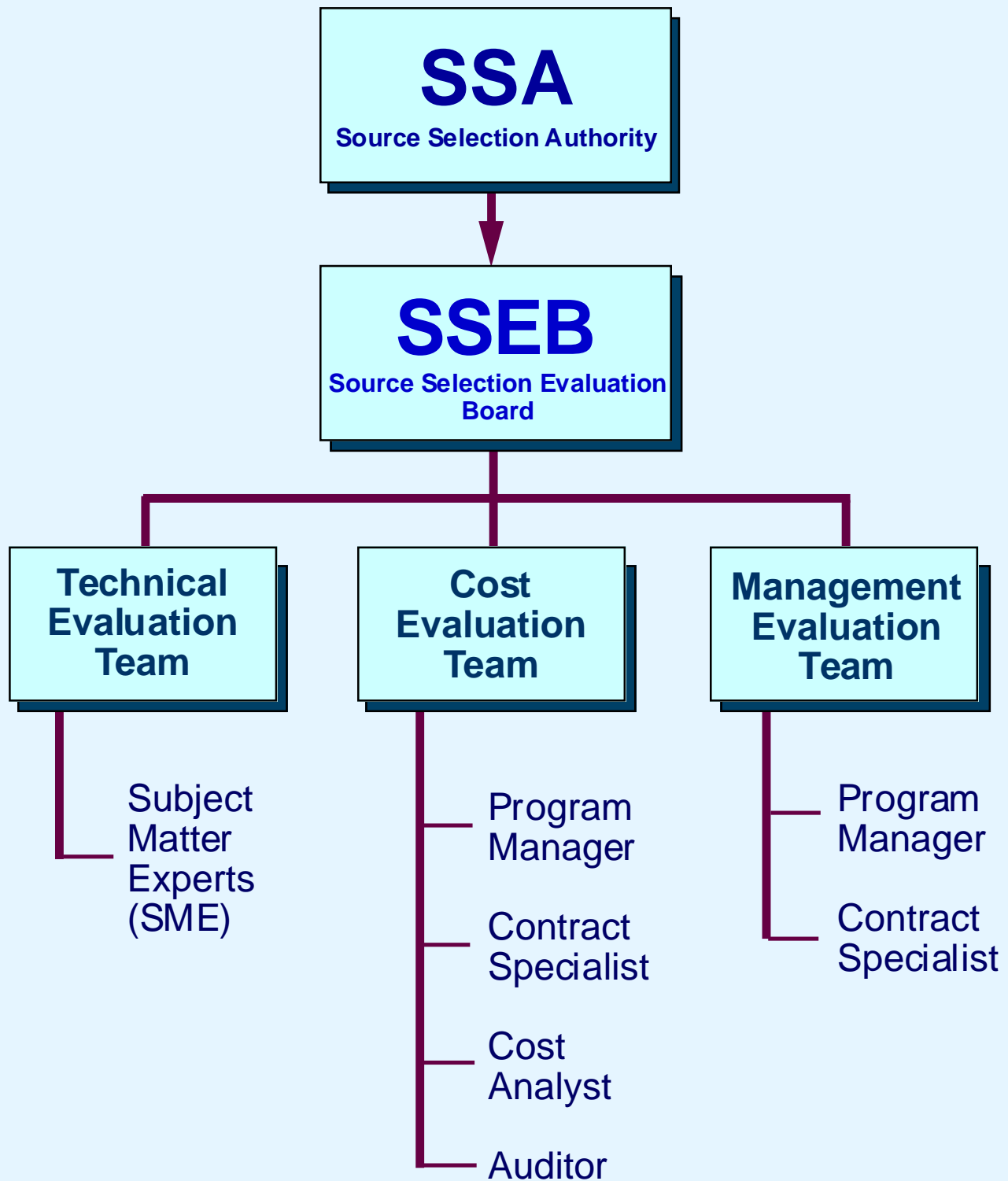
Evaluation Plan

Evaluation Factors and Criteria

Scoring Plans

Procedures

Scheduled Milestones



Firm-Fixed Price
Fixed-Price Award Fee
Cost-Reimbursement
Cost or Cost Sharing
Time & Materials
Cost-Plus-Fixed Fee
Cost-Plus Incentive Fee

?

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**ANALYZE MARKET
RESEARCH**



**PERFORM RISK
ANALYSIS**



**ESTIMATE RISK
IMPACT ON COST**

Fixed-Price Contracts

Time & Materials (TM)

Firm-Fixed Price (FFP)

Firm-Fixed Price Incentive (FFPI)

Fixed-Price Economic Price Adjustment

(FPEPA)

Fixed-Price Award Fee (FPAE)

Fixed-Price Prospective Redeterminable

(FPPR)

Cost-Reimbursement Contracts

Cost-Reimbursement (no fee)

Cost-Plus Fixed Fee (CPFE)

Cost-Plus Incentive Fee (CPIF)

Cost-Plus Award Fee (CPAF)

Cost or Cost Sharing (CS)

Method of Ordering

Basic Ordering Agreement

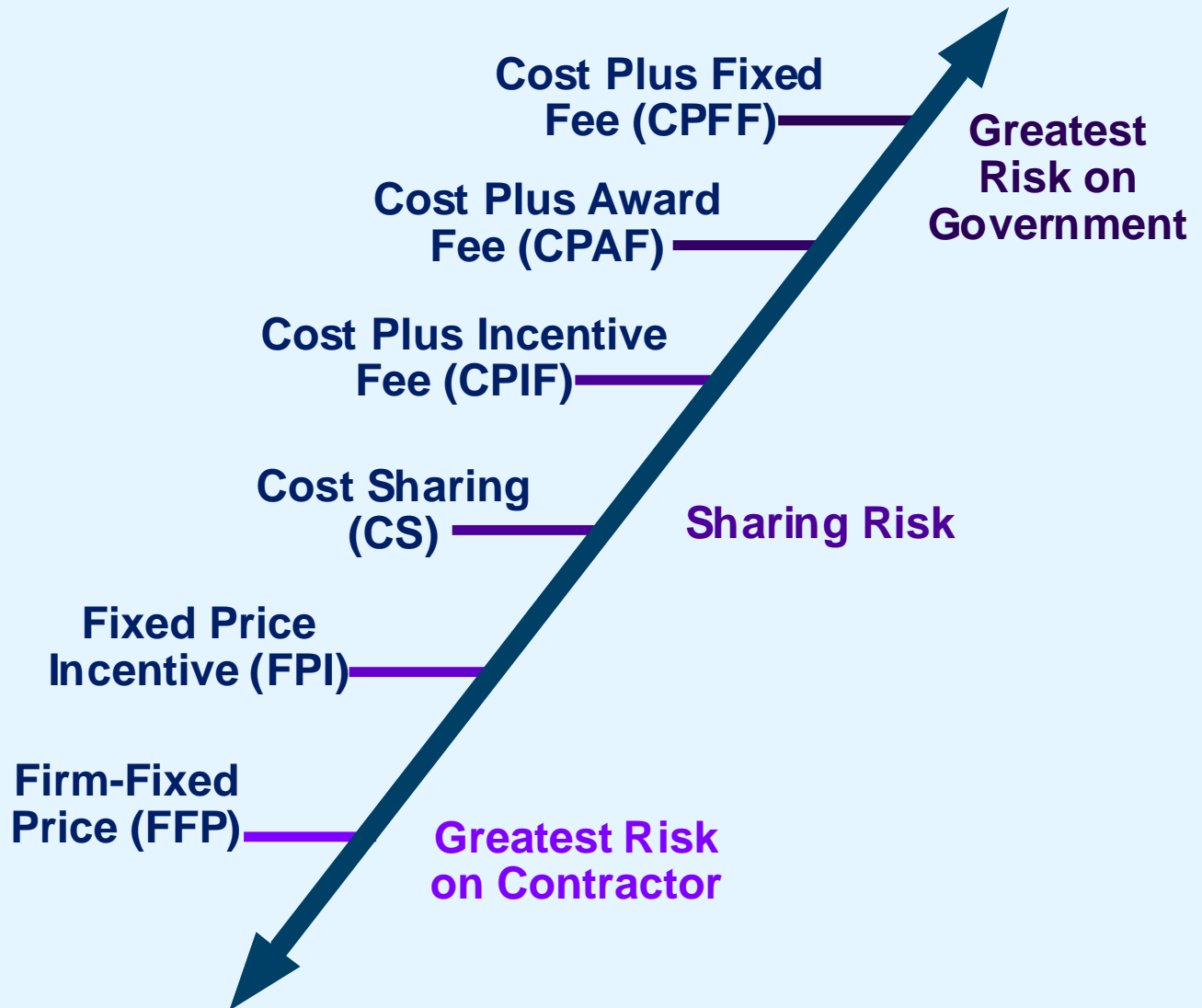
Basic Agreement

Definite-Quantity/Definite-Delivery

Definite-Quantity/Indefinite-Delivery

Indefinite-Quantity/Indefinite-Delivery

Profile of Contract Risk



Uniform Contract Format (UCF)

Section	Title
A	Solicitation/Contract Form
B	Supplies or Services and Prices/Cost
C	Description/Specifications/Work Statement
D	Packaging and Marking
E	Inspection and Acceptance
F	Deliveries or Performance
G	Contract Administration Data
H	Special Contract Requirements
I	Contract Clauses
J	List of Attachments
K	Representations and Certifications
L	Instructions, Conditions, and Notices
M	Evaluation Factors for Award

Checklist to Ensure a Proposal is Complete

Factors	Yes	No
<p>1. Are there any minor irregularities and informalities?</p> <ul style="list-style-type: none"> • Did the offeror provide information concerning the number of employees? • Did the offeror return the number of copies or signed offers required by solicitation? • Has the offeror furnished affidavits concerning its parent company and affiliates when applicable? • Has the offeror executed the certifications with respect to Equal Opportunity and Affirmative Action Programs <p>2. Are there any substantive differences between the RFP and the proposal's terms and conditions?</p> <p>3. Are there any inconsistencies and errors of a quantitative nature?</p> <p>4. Has the offeror provided the other necessary certifications? The following is a list of some of the required certifications:</p> <ul style="list-style-type: none"> ● Procurement Integrity FAR 52.203-8 ● Debarment, Suspension, etc. FAR 52.209-5 ● Small Business Concern FAR 52.219-1 ● Small Disadvantaged Business Concern FAR 52.219-2 ● Woman-Owned Small Business FAR 52.219-3 ● Walsh-Healy FAR 52.222-19 ● Clean Air and Water FAR 52.223-1 ● Buy American FAR 52.225-1 		

Instructing Technical Evaluators

Factors	Yes	No
<p>1. Did you inform the Technical Evaluators on how to determine each proposal's technical acceptability? For example:</p> <ul style="list-style-type: none"> - acceptable - capable of being made acceptable - unacceptable <p>2. Did you report specific deficiencies in the technical proposal?</p> <p>3. Do the Technical Evaluators know that the terms of technical acceptability should be based on:</p> <ul style="list-style-type: none"> - statement of work - technical evaluation factors <p>4. Did you inform the Technical Evaluators what information to analyze for cost or price analysis? For example:</p> <ul style="list-style-type: none"> - quantities and kinds of material proposed - need for the number and type of labor hours - special tooling and facilities proposed - reasonableness of proposed scrap <p>5. Did you inform the Technical Evaluators of when to recommend use of a factfinding session and do they understand the need to identify the specifics on what must be asked of the offeror?</p> <p>6. Did you explain to the Technical Evaluators when to recommend that the RFP may need to be amended and why?</p> <p>7. Did you inform the Chairman of the Technical Evaluation Committee that his signature is required on the summary evaluation report?</p>		

Cost and Pricing Data

- Historical Accounting Data
- Management Decisions
- Unit Cost/Labor Efficiency
- Vendor Quotations
- Changes in Production Methods
- Changes in Volume

Truth in Negotiations Act of 1962

15.802 Policy

(a) 10 U.S.C. 2306a and 41 U.S.C. 254(d) provide that all executive agencies shall require a prime contractor or any subcontractor to submit and certify cost or pricing data under certain circumstances. The Acts also require inclusion of contract clauses that provide for reduction of the contract price by any significant amounts that such price was increased because of submission of contractor or subcontractor defective cost or pricing data.

Data for Cost Analysis

Historical Data

A tilted document showing a list of numerical values, representing previous estimates.

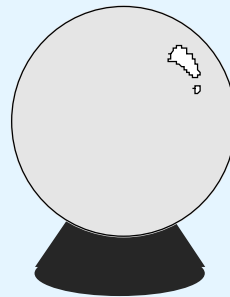
7360.00
8200.00
8487.00
7967.00
8163.00
7802.00

Previous Estimates



Technical Evaluators

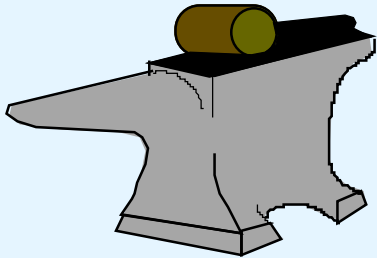
Forecasts/Planned
Expenditures



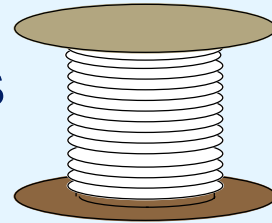
Estimating System Survey Report

- Sources of Data for Estimates
- Supportive Documentation
- Responsibilities for Reviewing Estimates
- Procedures for Developing Estimates
- Coordination and Communication
- Management Support

Elements of Cost-Direct Material



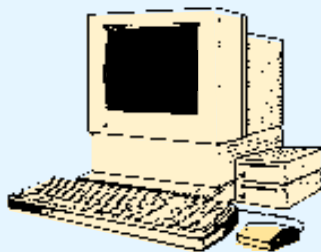
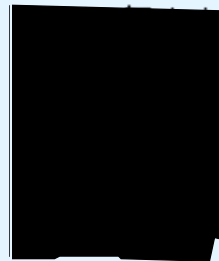
Raw Materials



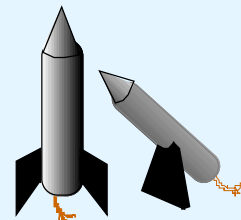
Standard
Commercial
Items



Purchased
Parts



Interdivisional
Transfers



Subcontracted
Items

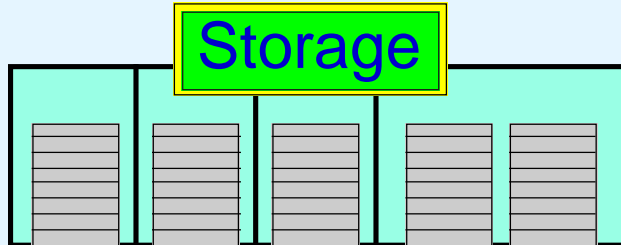


Elements of Cost - Material Overhead

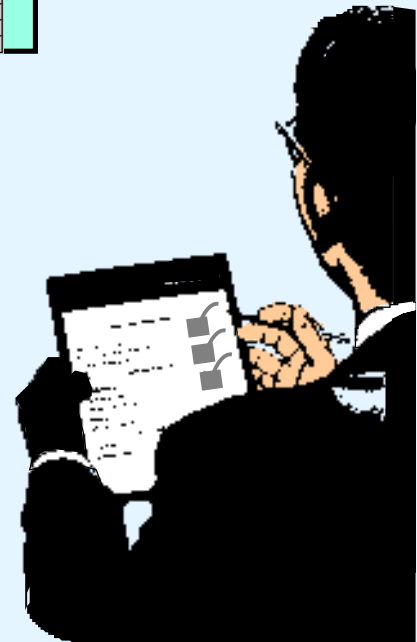
Transportation



Storage



Loading Dock &
Quality Control



Purchasing

Elements of Cost - Direct Labor

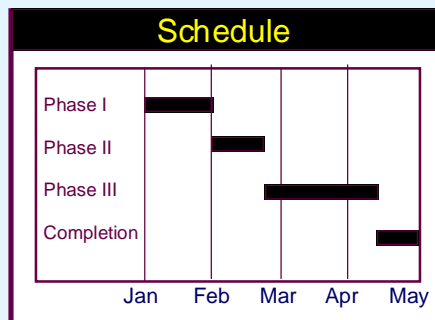


Elements of Cost - Other Direct Costs



Travel

Training



Start Up

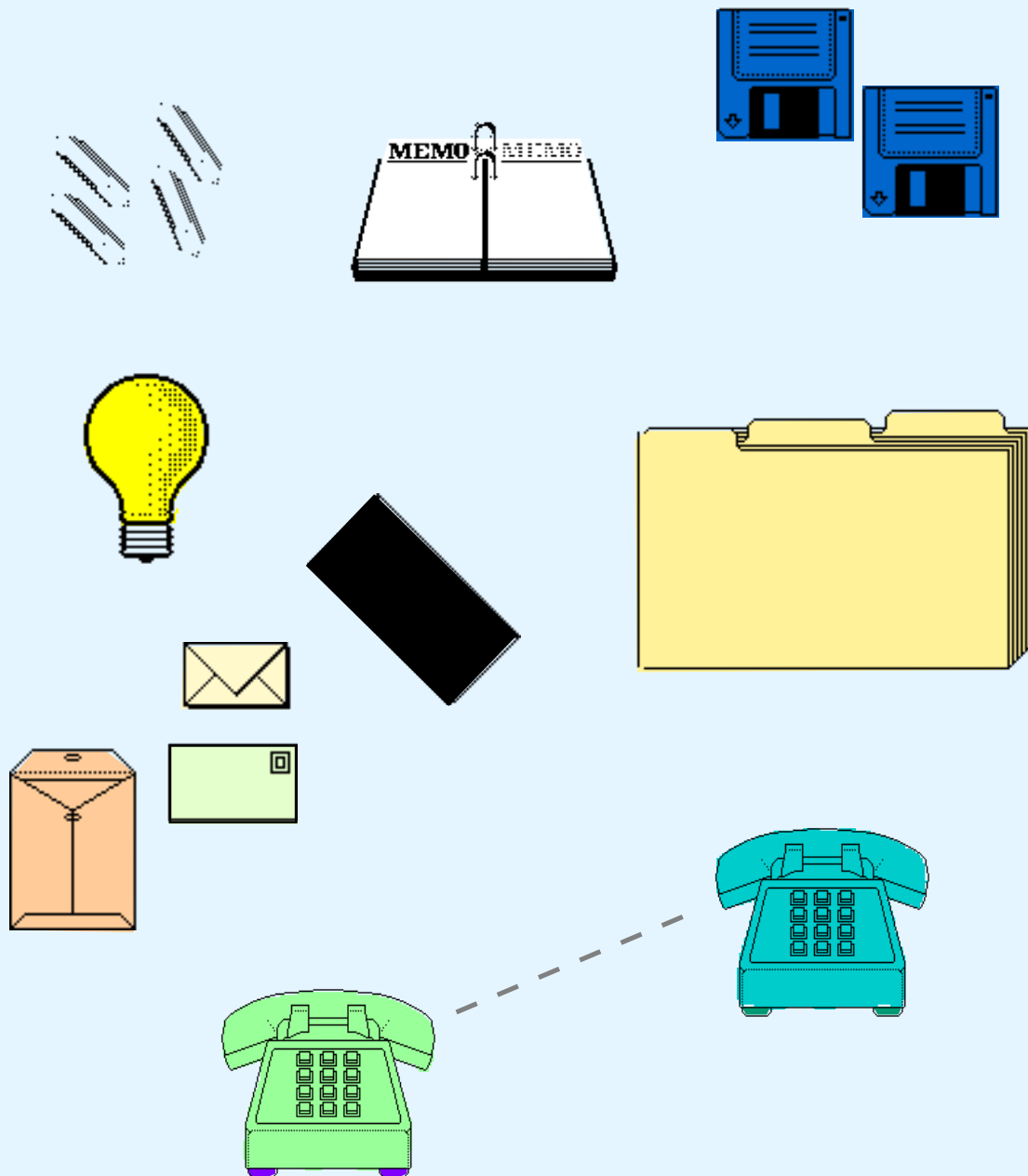
Special Insurance



Packaging & Packing



Elements of Cost - Indirect Costs



Structured Approach to Profit Analysis

- Contractor Effort
- Contract Cost Risk
- Federal Socioeconomic Programs
- Capital Investments
- Cost Control
- Past Accomplishments
- Independent Development

Determining Competitive Range

**EXCLUDE OFFERORS OUTSIDE
THE TECHNICAL RANGE**



**EXCLUDE OFFERORS OUTSIDE
THE PRICE RANGE**



**EXCLUDE OFFERS THAT RANK
FAR BEHIND OTHER PROPOSALS**

Negotiation Strategy

REVIEW PRENEGOTIATION OBJECTIVES



ASSEMBLE AND BRIEF TEAM



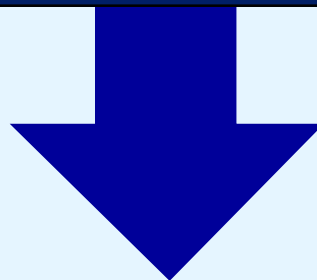
RESEARCH OFFERORS STRATEGY



IDENTIFY FACTORS AFFECTING NEGOTIATIONS



IDENTIFY PRIORITIES



OVERALL STRATEGY

Approving Officials



Legal Staff



DEPARTMENT HEAD

Level Above CO



Requiring Activity

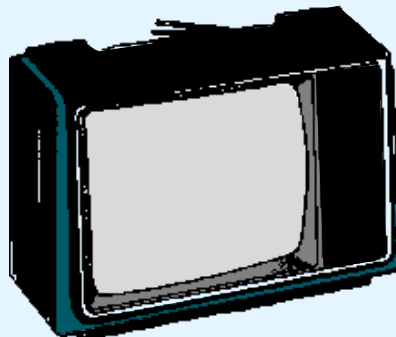
Pre-Award Notifications

Small
Business
Offerors



Agency Public
Liaison Office

Media



Post-Award Notifications

- Requiring Activity
- Unsuccessful Offerors
- CBD
- Government Agencies

Name 4 examples of an
inadequate Statement of
Work (SOW).

**Name 3 methods of
solicitation.**

What document is written by the
Requiring Activity and reviewed by the
Contract Specialist and provides a clear
understanding of what is being bought?

**Name 3 techniques for
improving the Government's
description of need.**

What is the analysis and ranking of technical proposals against factors contained in the RFP called?

**What are the 2 standards
that Technical Evaluation
factors must meet?**

**What is one purpose of the
Source Selection Plan (SSP)?**

**Who is the person responsible for
ensuring the documentation required
to support Source Selection evaluation
is accurate?**

**What are the 2 categories
of contract types?**

**What contract is used when
prices for labor and/or
materials are unstable
over the life of the contract?**

**Name five types of contracts
used in Contracting by
Negotiation.**

Name 2 methods you may
use to solicit goods or
services.

What 4-part, 13-section format is used to guide the preparation of the Request for Proposal (RFP)?

Name 5 sections in the
Uniform Contract Format
(UCF).

**What forum is used to explain
or clarify complicated
specifications in the RFP?**

**What are 3 options facing the
Contract Specialist at the
conclusion of the pre-proposal
conference?**

**Name 3 tasks involved
in processing a proposal?**

**What is the difference,
regarding responsiveness,
between negotiations and
sealed bidding?**

**What is the technical ranking
of proposals based on?**

**What is the process of examining
and evaluating proposed price
without evaluating separate costs
and proposed profit?**

**How does the Government determine
fair and reasonable prenegotiation
price objectives for a procurement?**

**Name 3 techniques that
will assist you in
evaluating prices?**

What does the offeror submit at the conclusion of negotiations that attests to the accuracy, currency, and completeness of their pricing proposal?

What should you do when field pricing support is not available or is exempt and additional information is necessary to determine the reasonableness of proposed prices?

**What are possible or
probable events or cost risks
that can be provided for in
the proposal?**

**Name 3 factors you use
to determine if a cost is
allowable.**

**What is established to
eliminate proposals that
don't have a reasonable
chance of selection?**

**What is conducted in order
to clarify offeror's proposals?**

**What procedure permits
bargaining and affords
offerors an opportunity to
revise offers before award?**

**Name 3 areas of concern with
an offeror's proposal that are
addressed in meaningful
discussions.**

**What documentation helps
establish the reasonableness of
agreements reached with the
offeror?**

**Name 2 examples of
mistakes or suspected
mistakes in offers.**

What is a legal and binding agreement that accurately conveys what was agreed upon by the Government and the offeror?

**Name 2 reviewers of
award recommendations.**

**What is the acceptance
of an offeror?**

What ensures small business concerns and small disadvantaged business concerns shall have the maximum opportunity to participate in contract performance?

Name 3 tasks the Contract
Specialist must complete to finalize
the award process?

Name 2 individuals and/or agencies that must receive post-award notifications.

What is assisting offerors in upgrading the quality of their future proposals by identifying areas where they can improve their proposal techniques?